

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA

4 v.

13 Cr. 282 (VM)

5 EDGAR PALTZER,

Plea

6 Defendant.

7 -----x  
8 New York, N.Y.  
9 August 16, 2013  
10:35 a.m.

10 Before:

11 HON. RONALD L. ELLIS

12 Magistrate Judge

13 APPEARANCES

14  
15  
16 PREET BHARARA

United States Attorney for the  
Southern District of New York

17 JASON H. COWLEY

18 DANIEL LEVY

Assistant United States Attorneys

19  
20 THOMAS W. OSTRANDER

Attorney for Defendant

1 (Case called)

2 THE CLERK: All counsel please identify yourselves for  
3 the record.

4 MR. COWLEY: Good morning, your Honor. Jason Cowley  
5 for the government. With me is my colleague Dan Levy and agent  
6 Kellen working with the IRS.

7 THE COURT: Good morning.

8 MR. OSTRANDER: Thomas Ostrander on behalf of the  
9 defendant Edgar Paltzer.

10 THE COURT: Good morning.

11 THE CLERK: Mr. Ostrander, please have your client  
12 stand. You are Edgar Paltzer?

13 THE DEFENDANT: Yes.

14 THE CLERK: Have you signed this waiver of indictment?

15 THE DEFENDANT: Yes.

16 THE CLERK: Before you signed it, did you discuss it  
17 with your attorney?

18 THE DEFENDANT: Yes.

19 THE CLERK: Did your attorney explain it to you?

20 THE DEFENDANT: Yes.

21 THE CLERK: Do you understand what you are doing?

22 THE DEFENDANT: Yes.

23 THE CLERK: Do you understand that you are under no  
24 obligation to waive indictment?

25 THE DEFENDANT: Yes.

1 THE CLERK: Do you understand that if you do not waive  
2 indictment, if the government wants to prosecute you, they will  
3 have to present this case to a grand jury, which may or may not  
4 indict you?

5 THE DEFENDANT: Yes.

6 THE CLERK: Do you understand that by signing this  
7 waiver of indictment, you have given up your right to have this  
8 case presented to a grand jury?

9 THE DEFENDANT: Yes.

10 THE CLERK: Do you understand what a grand jury is?

11 THE DEFENDANT: Yes.

12 THE CLERK: Have you seen a copy of this information?

13 THE DEFENDANT: Yes.

14 THE CLERK: Do you waive its public reading?

15 THE DEFENDANT: Yes.

16 THE CLERK: Mr. Edgar Paltzer, how do you plead as to  
17 S1 13 Cr. 282, Count One?

18 THE DEFENDANT: Not guilty.

19 THE CLERK: Thank you. Please be seated.

20 Mr. Cowley, I understand that the case has been  
21 referred by Judge Marrero so that Mr. Paltzer could withdraw  
22 his previously entered plea of not guilty and proceed before a  
23 magistrate judge for the purpose of entering a plea to Count  
24 One of the information.

25 MR. COWLEY: That is correct, your Honor.

1 THE COURT: Mr. Paltzer, I'm Judge Ellis. The case  
2 has been referred to me by Judge Marrero for the purpose of  
3 taking your plea. Has the process been explained to you?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Did you sign a consent to proceed before a  
6 United States magistrate judge on your felony plea allocution?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Before you signed it, did you discuss it  
9 with your attorney? Let me ask you again, Mr. Paltzer, did you  
10 sign a consent to proceed.

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Before you signed it, did you discuss it  
13 with your attorney?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Did your attorney explain it to you?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Do you understand that you have an  
18 absolute right to have this proceeding before an Article III  
19 district judge?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: And you are voluntarily proceeding before  
22 a United States magistrate judge?

23 THE DEFENDANT: Yes, your Honor.

24 THE COURT: Mr. Paltzer, you are charged in a one-  
25 count information, S1 13 Cr. 282. This information charges you

1 with a violation of Title 18, United States Code, section 371.  
2 The charge carries a maximum sentence of 5 years' imprisonment,  
3 a maximum term of 3 years' supervised release, a maximum fine  
4 which is the greatest of either \$250,000 or twice the gross  
5 pecuniary gain derived from the offense or twice the gross  
6 pecuniary loss to persons other than yourself as a result of  
7 the offense. There is a mandatory \$100 special assessment.

8 In addition, the court shall order restitution in  
9 accordance with the United States Code. Do you understand  
10 these penalties as I have read them to you?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Do you also understand that if you are  
13 sentenced to any period of supervised release and violate the  
14 conditions of your supervised release, you may be sentenced to  
15 all or part of the term of supervised release without any  
16 credit for time already served?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Mr. Paltzer, are you a citizen of the  
19 United States?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Mr. Paltzer, have you seen a copy of the  
22 information in which the government makes these charges against  
23 you?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Have you reviewed the information with

1 your attorney?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Do you understand that the charges  
4 essentially accuse you of conspiracy to commit tax fraud?

5 THE DEFENDANT: Yes, your Honor.

6 THE COURT: Have you had enough time to discuss with  
7 your attorney how you are to plead?

8 THE DEFENDANT: Yes.

9 THE COURT: And you are prepared to enter a plea  
10 today?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Edgar Paltzer, how do you plead?

13 THE DEFENDANT: I plead guilty, your Honor.

14 THE COURT: Mr. Paltzer, before I can recommend that  
15 your plea be accepted, I must determine that you understand the  
16 plea and its consequences, that the plea is voluntary, and that  
17 there is a factual basis for the plea. For that purpose I must  
18 ask you a number of questions and your answers must be under  
19 oath. Do you understand that the answers you give under oath  
20 may subject you to prosecution for perjury if you do not tell  
21 the truth?

22 THE DEFENDANT: Yes, your Honor.

23 (Defendant sworn)

24 THE COURT: Please state your full name for the  
25 record.

1 THE DEFENDANT: Paltzer is the last name,  
2 P-A-L-T-Z-E-R. First given name, Edgar. Middle name Henri,  
3 H-E-N-R-I.

4 THE COURT: What is your date of birth, Mr. Paltzer?

5 THE DEFENDANT: May 21, 1956.

6 THE COURT: How far did you go in school.

7 THE DEFENDANT: I graduated university.

8 THE COURT: You have a equivalent of a Bachelor's?

9 THE DEFENDANT: I have the equivalent of a Bachelor's  
10 degree and equivalent of a Ph.D.

11 THE COURT: So you also got a doctorate?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Are you currently being treated by a  
14 doctor or psychiatrist for any reason?

15 THE DEFENDANT: No, your Honor.

16 THE COURT: Have you ever been treated for alcoholism  
17 or drug addiction?

18 THE DEFENDANT: No, your Honor.

19 THE COURT: Have you taken any medications in the last  
20 24 hours?

21 THE DEFENDANT: Yes, against a cold.

22 THE COURT: Was that over-the-counter, or what was it?

23 THE DEFENDANT: It was aspirin.

24 MR. OSTRANDER: Aspirin.

25 THE COURT: Are you feeling all right today?

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Are you having any difficulty seeing,  
3 hearing, or understanding any of these proceedings?

4 THE DEFENDANT: No, your Honor.

5 THE COURT: Have you had enough time to discuss with  
6 your attorney how you wish to plead?

7 THE DEFENDANT: Yes, your Honor.

8 THE COURT: Are you satisfied with your attorney?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: Do you understand what the government says  
11 that you did?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Do you understand that you have a right to  
14 plead not guilty?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Do you understand that you have a right to  
17 a trial by jury on these charges?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Do you understand that if you were to  
20 plead not guilty and go to trial, you would be innocent until  
21 the government proved your guilt beyond a reasonable doubt?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Do you understand that at trial you would  
24 have a number of important constitutional rights?

25 THE DEFENDANT: Yes, your Honor.



1 THE COURT: Do you understand that those rights  
2 include the right to be represented by counsel and to have  
3 counsel appointed for you if you cannot afford an attorney?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Do you understand that you would have a  
6 right to an attorney at every stage of the criminal  
7 proceedings?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Do you understand that at trial you cannot  
10 be forced to testify against yourself?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: Do you understand that at trial you would  
13 have the right to confront and cross-examine witnesses called  
14 by the government?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Do you understand that at trial you would  
17 have the right to testify yourself and to call witnesses on  
18 your behalf and to compel their attendance by subpoena if  
19 necessary?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Do you understand that if your guilty plea  
22 is accepted, there will be no trial of any kind, and the only  
23 remaining steps in your case will be a pre-sentence report and  
24 sentencing by Judge Marrero?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: Have you discussed with your attorney the  
2 role that the sentencing guidelines play at sentencing?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Do you understand that there will be a  
5 calculation in your case under the guidelines?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Do you understand that that calculation  
8 will take into account a number of factors, including the  
9 actual conduct in which you engaged, any victims of the  
10 offense, the role that you played in the offense, whether or  
11 not you have accepted responsibility for your acts, whether you  
12 have any criminal history, and whether you have engaged in any  
13 obstruction of justice?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Have those factors been explained to you  
16 by your attorney?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Between now and the date of sentencing,  
19 the probation department will conduct an investigation and will  
20 prepare a pre-sentence report. Your attorney, the government,  
21 and Judge Marrero will receive copies. Both your attorney and  
22 the government will have the opportunity to object if they  
23 believe anything in the report is inaccurate. Do you  
24 understand that?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: Do you understand that until the  
2 pre-sentence report is prepared, neither your attorney nor the  
3 government nor Judge Marrero will be able to determine  
4 precisely what range of penalty will be calculated in your case  
5 under the guidelines?

6 THE DEFENDANT: Yes, your Honor.

7 THE COURT: Do you understand that whatever the range  
8 under the guidelines, your sentence cannot exceed the maximums  
9 that I advised you earlier?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Do you understand that whatever the range  
12 under the guidelines, Judge Marrero will still retain  
13 discretion as to the active penalty to be imposed in your case?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Do you understand that in addition to the  
16 guidelines, Judge Marrero will also consider the factors that  
17 are set forth in 18 United States Code section 3553(a)?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: Have those factors been explained to you  
20 by your attorney?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Do you understand that under certain  
23 circumstances both you and the government may have a right to  
24 appeal the sentence imposed?

25 THE DEFENDANT: Yes, your Honor.

1 THE COURT: Do you understand that if the sentence is  
2 more severe than you expected, you will be bound by your guilty  
3 plea and will not be permitted to withdraw it?

4 THE DEFENDANT: Yes, your Honor.

5 THE COURT: Do you understand that parole has been  
6 abolished and that if you are sentenced to any period of  
7 imprisonment, you will be required to serve the entire term?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Mr. Paltzer, I have been handed up a plea  
10 agreement in your case. Did you review this agreement with  
11 your attorney?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Did he go over the provisions with you?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: You signed it?

16 THE DEFENDANT: Yes, your Honor.

17 THE COURT: Do you understand that the plea agreement  
18 requires that you provide certain assistance to the government?

19 THE DEFENDANT: Yes, your Honor.

20 THE COURT: Do you understand that in exchange for the  
21 assistance, the government has indicated that it may file a  
22 motion on your behalf pursuant to section 5K1.1 of the  
23 guidelines?

24 THE DEFENDANT: Yes, your Honor.

25 THE COURT: Do you understand that if the government

1 decides that it will not file a motion on your behalf, you will  
2 not be allowed to withdraw your plea?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: Do you understand that even if the  
5 government files a motion on your behalf, Judge Marrero will  
6 still have discretion as to the penalties to be imposed in your  
7 case?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Other than what is contained in the plea  
10 agreement, have any promises been made to you by anyone to  
11 influence you to plead guilty?

12 THE DEFENDANT: No.

13 THE COURT: Has anyone promised you specific sentence  
14 if you plead guilty?

15 THE DEFENDANT: No, your Honor.

16 THE COURT: Has anyone made any threats against you to  
17 influence you to plead guilty?

18 THE DEFENDANT: No, your Honor.

19 THE COURT: Are you making this plea voluntarily, that  
20 is, of your own free will and choice?

21 THE DEFENDANT: Yes, your Honor.

22 THE COURT: Elements of the offense.

23 MR. COWLEY: Your Honor, the offense charged in the  
24 information has three elements. First, that the conspiracy  
25 charged in the information existed, that is, that there was an

1 agreement or understanding between certain U.S. taxpayers and  
2 others to commit federal crimes, in this case to defraud the  
3 IRS to evade taxes due and owing and to file false tax returns.

4 The second element is that the defendant, Mr. Paltzer,  
5 knowingly became a member of that conspiracy.

6 The third element, your Honor, is that a member of  
7 that conspiracy committed an overt act in furtherance of that  
8 conspiracy.

9 THE COURT: Thank you.

10 Mr. Paltzer, did you hear the elements of the offense  
11 with which you have been charged?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: Do you understand that if the government  
14 were to proceed to trial against you, it would have the burden  
15 of proving each and every element of this offense beyond a  
16 reasonable doubt?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Mr. Paltzer, did you commit the offense  
19 with which you have been charged?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Tell me what you did.

22 THE DEFENDANT: From 2000 through 2012 I acted as a  
23 financial intermediary and I provided financial intermediary  
24 services. These services included the formation and the  
25 administration of foreign and domestic entities, including

1 corporations and foundations and providing services on private  
2 banking matters. I provided these services to individuals from  
3 numerous countries, including to persons who were citizens and  
4 residents of the United States. I did so in exchange for fees.

5 From 2000 through 2012, working with others in the  
6 Swiss financial industry, I assisted U.S. taxpayers in evading  
7 the U.S. tax obligations of these U.S. taxpayers and in filing  
8 false tax returns with the IRS. In furtherance of my agreement  
9 with these U.S. taxpayers, but acting in what I believed to be  
10 in accordance with and not in violation of Swiss law, I formed  
11 and administered various corporations and foundations.

12 I also opened accounts at banks in Switzerland in the  
13 name of the entities which I had formed for U.S. taxpayers,  
14 without completing W-9 tax disclosure forms which would have  
15 disclosed the U.S. taxpayer's interest in the bank accounts. I  
16 was aware that by forming these entities, that forms W-9 would  
17 not be prepared and that the IRS would not be made aware of the  
18 income earned in these bank accounts.

19 These bank accounts allowed for the evasion of U.S.  
20 taxes and ultimately resulted in the filing of false U.S. tax  
21 returns. At all relevant times I was aware that certain U.S.  
22 taxpayers were maintaining through the entities which I set up  
23 non-W-9 accounts at banks in Switzerland in order to evade  
24 their U.S. tax obligations in violation of U.S. law.

25 I was aware that U.S. taxpayers had a legal duty to

1 report to the IRS and pay taxes on the basis of their worldwide  
2 income, including income earned in accounts that these U.S.  
3 taxpayers opened in Switzerland. Despite being aware of this  
4 legal duty, I intentionally formed foundations and corporations  
5 which permitted these U.S. taxpayers to hide from the IRS these  
6 accounts and the income earned in these accounts, to file false  
7 U.S. income tax returns that did not report these non-W-9  
8 accounts and the income earned in the accounts, and by doing so  
9 I assisted these taxpayers in violating their legal duties. I  
10 was aware that this conduct was wrong.

11 One or more of the U.S. taxpayers who conspired with  
12 me lived or worked in the Southern District of New York when we  
13 engaged in these activities. I met with at least one such  
14 taxpayer in Manhattan, where we discussed his entity holding  
15 the undeclared Swiss bank account.

16 I also communicated by email in September 2008 with  
17 another U.S. taxpayer and referred at her request to checks  
18 delivered to the U.S. taxpayer from her undisclosed Swiss bank  
19 account as postcards in order to help her hide the true nature  
20 of the communication.

21 I knew that the U.S. taxpayers who were making use of  
22 my services were doing so to evade U.S. taxes and that they  
23 were filing false tax returns. Knowing my conduct was in  
24 violation of U.S. law, I nevertheless agreed with the U.S.  
25 taxpayers to help them commit these crimes.



1 THE COURT: I would say that is sufficient.

2 MR. COWLEY: It is, your Honor.

3 To summarize a few additional facts for the record,  
4 Mr. Paltzer was formerly a partner at a law firm in  
5 Switzerland. As part of what he did professionally, he  
6 provided financial intermediary services, including to U.S.  
7 taxpayers. In acting in that capacity as a financial  
8 intermediary, Mr. Paltzer helped dozens of U.S. taxpayers  
9 maintain undeclared accounts in Switzerland, and these accounts  
10 in aggregate contained millions and millions of dollars in  
11 undeclared assets.

12 When certain banks in Switzerland made the decision to  
13 no longer maintain accounts for U.S. taxpayers with undeclared  
14 accounts, Paltzer worked with U.S. taxpayers and others in the  
15 Swiss financial industry to move these accounts to other Swiss  
16 banks that were still willing to maintain these accounts for  
17 U.S. taxpayers.

18 THE COURT: One final thing with regard to this, Mr.  
19 Paltzer, just so you can affirm on the record, since you are  
20 reading from a prepared text, you understood everything that  
21 you read, is that correct?

22 THE DEFENDANT: Yes, your Honor.

23 THE COURT: Does either counsel know of any reason why  
24 I should not recommend this plea?

25 MR. COWLEY: Nothing from the government, your Honor.

1 MR. OSTRANDER: Nothing from the defense, your Honor.

2 THE COURT: Based on the defendant's allocution, I  
3 find that he understands the nature of the charges and the  
4 consequences of his guilty plea. I also find that the plea is  
5 voluntary and that there is a factual basis for the plea. I  
6 therefore recommend that the plea be accepted and direct that a  
7 pre-sentence report be prepared.

8 Sentencing will take place before Judge Marrero. What  
9 is the story with that?

10 MR. COWLEY: Your Honor, we have a control date for  
11 that of February 21st at 10 a.m.

12 THE COURT: Did you say February?

13 MR. OSTRANDER: February 21st at 10 a.m., yes, your  
14 Honor.

15 THE COURT: February of?

16 MR. COWLEY: 2014. Your Honor, also, I don't think it  
17 is necessary at this time to have a pre-sentence report ordered  
18 prepared.

19 THE COURT: Considering the date of the sentence, I  
20 think we might be able to delay that. So even though I have  
21 said that, obviously there is no hurry.

22 MR. COWLEY: A few other items, your Honor. One  
23 request is that the plea agreement here today be marked as  
24 Court Exhibit 1. I would also note for the record that in the  
25 plea agreement it includes that as part of the restitution that

1 Mr. Paltzer will pay, he is disgorge any fees that were earned  
2 by committing the acts alleged in the criminal information.

3 Finally, your Honor, as I mentioned in Mr. Paltzer's  
4 presentment, Mr. Paltzer has access to, in fact controls  
5 access, to certain vaults located in Zurich, Switzerland, that  
6 contain assets of U.S. taxpayers. We discussed the entrance of  
7 an order prohibiting Mr. Paltzer and his wife and any agents of  
8 Mr. Paltzer from accessing those vaults or from providing  
9 anyone else access to those vaults. We, pursuant to the  
10 Court's order, will be putting in a redacted version of that  
11 order on the docket shortly after this hearing.

12 THE COURT: All right. Thank you.

13 Is there anything else?

14 MR. OSTRANDER: Not from the defense, your Honor.

15 MR. COWLEY: Nothing from the government, your Honor.

16 THE COURT: Then we are adjourned.

17 (Adjourned)